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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,989	02/27/2004	Daniel G. O'Neil	50037.229US01	6860

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EXAMINER
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WASHBURN, DANIEL C

ART UNIT	PAPER NUMBER
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2628

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/788,989	O'NEIL ET AL.	
	Examiner	Art Unit	
	Dan Washburn	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,6-8,26,29 and 32-52 is/are pending in the application.
- 4a) Of the above claim(s) 26,29,39,40,48 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,32-37,41-47 and 50-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/2/07 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 and 6-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claims 1, 35, and 44 are objected to because of the following informalities: Line 12 of each claim reads, "second brand ***extension scheme*** for..." it should read, "second brand ***extension color scheme*** for..."

Claims 26 and 29 are objected to because of the following informalities: Claims 26 and 29 were withdrawn from consideration in the last office action because they were drawn to the non-elected groups B and C of the restriction requirement. The status identifiers that accompany the claims should read, "previously withdrawn" instead of "previously presented".

Claims 36-43 are objected to because of the following informalities: Claims 36-43 describe the method of claim 35, but claim 35 describes a computer-readable storage

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medium. Claims 36-43 should be amended to describe, "The computer-readable storage medium of claim 35".

Appropriate correction is required.

***Election/Restrictions***

Newly submitted claims 39, 40, 48, and 49 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 39 and 48 are identical in scope to non-elected claim 26 (group B) and claims 40 and 49 are identical in scope to non-elected claim 29 (group C).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 39, 40, 48, and 49 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7, 32-37, 41-46, and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US 5,737,394) in view of Lee et al. (US 2002/0183098), in view of Lin (US 2004/0253976), in view of Kishida et al. (US 2002/0045465), and further in view of Murren et al. (US 2002/0198931).

As to claims 1, 35, and 44, Anderson describes a method for using a color scheme to communicate software application functionality associated with an incoming event notification and related to the integration of hardware and software in a computing device, comprising:

providing a first software application associated with a first mobile partner, wherein the software application associates a function with a soft key according to an incoming event notification, wherein the function of the soft key is selectable by receiving an input from a hardware button (column 5 lines 38-64 describes a telephone apparatus that includes a plurality of soft keys, further column 10 lines 33-53 describes that the function of the soft keys change based on incoming events, such as an incoming call or an incoming text message); and

receiving an incoming event notification that instantiates the first software application on the computing device, wherein the first software application determines software functionality options for the software key for responding to the incoming event notification (column 10 lines 33-53 describes the telephone apparatus receiving an incoming call or an incoming text message).

Anderson doesn't describe associating a color scheme with the software application to indicate that the function of the soft key is associated with the hardware button, nor does he describe illuminating the soft key and the hardware button on the computing device according to the color scheme to indicate that the hardware button is associated with the soft key functionality for responding to the incoming event notification.

However, Lee describes associating a color scheme with a software application (paragraph 0005 describes prior art cellular phones that change the color of the LCD based on the identified calling party) and illuminating a soft key and a hardware button on a computing device according to the color scheme (paragraphs 0006-0009 and paragraph 0019 describe an improved cellular phone where the hardware buttons are illuminated in a specific color along with the LCD, in order to identify the calling party). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Anderson the system and method of illuminating an LCD (which includes any displayed soft keys) and at least one hardware button according to a color scheme, as taught by Lee, in order to allow a user to determine the calling party by simply looking at the overall color appearance of the phone, rather than requiring a user to read the name displayed on the LCD. The advantage of the color based caller ID method described in Lee is that it allows a user to determine the calling party quickly and easily, which makes the phone more user friendly and thus more popular with the average consumer.

Anderson in view of Lee doesn't describe that the color scheme associated with the software application indicates that the function of the soft key is associated with a hardware button, nor does Anderson in view of Lee describe that the illuminated soft key and hardware button are illuminated according to the color scheme to indicate that the hardware button is associated with the soft key functionality for responding to the incoming event notification.

However, Lin describes a software application that detects the operating status of a telephone, determines all possibly enabled functions, and changes at least part of the

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light sources from a first status to a second status according to the operating status, in order to show at least one key corresponding to possibly enabled functions. Lin specifically describes that the software application uses a lighting scheme to indicate that the functions displayed on the LCD are associated with specific hardware buttons (paragraphs 0008-0010).

Lin further describes illuminating the hardware button on the computing device to indicate that the hardware button is associated with the currently displayed functionality presented on the LCD for responding to an incoming event notification (paragraphs 0022-0026 describe that when a mobile phone receives an incoming call a user is required to press 'send' or 'ok' in order to answer the call. The problem with this simple action is that the 'send' key and 'ok' key may not always be located in standard locations on the phone, thus a user may become confused, press the wrong key, and miss important calls. In order to remedy this problem, the invention described by Lin illuminates the 'send' key and the 'ok' key to indicate that these two hardware buttons will allow a user to answer the call. This method of illuminating the appropriate keys ensures that even a beginner will have an easy time operating the phone). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Anderson in view of Lee the system and method wherein the software application uses a lighting scheme to indicate that the functions displayed on the LCD are associated with specific hardware buttons, and further wherein the software application illuminates a hardware button on the computing device to indicate that the hardware button is associated with the currently displayed functionality presented on the

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LCD for responding to an incoming event notification, as taught by Lin, in order to light up the specific hardware buttons that should be used in conjunction with an incoming event notification, rather than simply lighting up random or all of the hardware buttons when the phone receives an incoming event notification. The advantage of lighting up the specific hardware buttons that are relevant to the incoming event notification is that it will help a user take appropriate action based on the incoming event notification, which makes the phone more user friendly and thus more popular with the average consumer.

Anderson in view of Lee and further in view of Lin doesn't describe that the computing device includes a second application that is associated with a second mobile partner, wherein the color schemes for the first and second applications include a first brand extension color scheme for a first mobile partner and a second brand extension color scheme for a second mobile partner, and wherein the soft key and hardware button are illuminated according to the first brand extension color scheme, which indicates that the first software application is associated with a first mobile partner.

Anderson in view of Lee and further in view of Lin doesn't describe instantiating the second software application, and illuminating the soft key and the hardware button on the computing device according to the second brand extension color scheme to indicate that the hardware button is associated with the soft key and to indicate that the second software application is associated with the second mobile partner.

However, Kishida describes a computing device that includes first and second applications, where the first application is associated with a first mobile partner and the



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second application is associated with a second mobile partner, a first application is instantiated when the computing device is first turned on and a second application is instantiated when the computing device starts the process of identifying a local network operator (paragraph 0029 describes the process illustrated in Figure 6. The process includes a start-up sequence that sets up the necessary functions of the phone and selects a background image for the display. The initial background image is an image related to the contract operator of the mobile phone. As such, the background image might be of an advertising character or might be a logo of the contract operator (considered to be presented in the brand extension color scheme of the contract operator). This image remains on the display as a background image until a local network operator is identified. The identification process is considered to be carried out by a separate application within the mobile phone. Once the local network operator is identified the background image of the contract operator is replaced with the background image of the network operator (the background image of the network operator is considered to be presented in the brand extension color scheme of the network operator).

Kishida describes a computing device that includes first and second applications, where the first application is associated with a first mobile partner and the second application is associated with a second mobile partner. When the first and second software applications are implemented on the system disclosed by Anderson, Lee, and Lin, the combination is considered to achieve the predictable results of instantiating the first software application, and illuminating the background of the display according to a

first brand extension scheme, which indicates that the first software application is associated with the first mobile partner, and then initiating the second software application, and illuminating the background of the display on the computing device according to the second brand extension color scheme to indicate that the hardware button is associated with the soft key and to indicate that the second software application is associated with the second mobile partner.

Kishida doesn't describe that the color scheme of the contract operator or the network operator extends any farther than the displayed background image.

However, Murren describes a server system that sends requested data to a wide range of clients, which includes clients accessing the data over a cellular network (paragraphs 0023-0025). Murren further describes that the server system includes a presentation layer that controls the look and feel of applications sent to client devices based on the brand of the device. The server selects a particular layout, branding, skin, color scheme, and other customizations based on the properties of the application and user preferences (paragraphs 0047-0048, 0097, and 0108). Thus, if these teachings are combined with the teachings of Anderson, Lee, Lin, and Kishida the combination yields the predictable result of a first brand extension color scheme that can be applied to the entire computing device (including the soft keys and hardware buttons taught by Anderson, Lee, and Lin) when a first mobile partner is associated with the computing device and a second brand extension color scheme that can be applied to the entire computing device when a second mobile partner is associated with the computing device.

All the elements of claims 1, 35, and 44 are known in Anderson, Lee, Lin, Kishida, and Murren, and the only difference is the combination of known elements has been combined into a single computing device.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in Anderson, Lee, and Lin, the system and method of a second application that is associated with a second mobile partner, wherein the color schemes associated with the first and second applications include a first brand extension color scheme for a first mobile partner and a second brand extension color scheme for a second mobile partner, and wherein the soft key and hardware button are illuminated according to the first brand extension color scheme, which indicates that the first software application is associated with a first mobile partner, instantiating the second software application, and illuminating the soft key and the hardware button on the computing device according to the second brand extension color scheme to indicate that the hardware button is associated with the soft key and to indicate that the second software application is associated with the second mobile partner, as is taught by Kishida and Murren when combined with Anderson, Lee, and Lin, in order to achieve the predictable results of a computing device that includes multiple software applications and includes the ability to apply a first color scheme to the computing device when an application associated with a first mobile partner is active on the device, wherein the first color scheme is a brand extension color scheme associated with the first application, and includes the ability to apply a second color scheme to the computing device when a second application associated with a second mobile partner is

active on the device, wherein the second color scheme is a brand extension color scheme associated with the second application.

Concerning claims 6, 36, and 45, Lee and Lin both describe a method wherein illuminating the hardware button comprises illuminating an illuminating element, wherein the illuminating element is at least one member of a group comprising: a tri-colored light emitting diode and an electro-luminescence light (Lee paragraph 0018 and Lin paragraph 0021).

Regarding claims 7, 37, and 46, Anderson describes a method wherein the incoming event notification is associated with an incoming call (column 10 lines 33-53 describes a user receiving a call while currently engaged in a conversation).

As to claims 32, 41, and 50, Kishida describes a method wherein the first and second brand extension schemes are associated with service providers (paragraph 0029 describes the contract operator and the network operator, which are both considered service providers).

Concerning claims 33, 42, and 51, Kishida describes a method wherein the first and second brand extension schemes are associated with operator equipment manufacturers (paragraph 0026 describes that the background image can be selected from a collection of background images based on parameters set by the manufacturer, which is considered one or more background images that are associated with operator equipment manufacturers).

Regarding claims 34, 43, and 52, Kishida describes a method wherein the first and second brand extension schemes are associated with an application on the

computing device (paragraph 0029 describes that the background image of the contract operator is displayed during the start-up application and this image is replaced with the background image of the network operator when a second application that searches for a network operator successfully identifies a network).

Claims 8, 38, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US 5,737,394) in view of Lee et al. (US 2002/0183098), and further in view of Lin (US 2004/0253976), Kishida, and Murren, as applied to claim 1 above, and further in view of Kimura (US 6,762,740).

With regard to claims 8, 38, and 47, Anderson in view of Lee and further in view of Lin, Kishida, and Murren doesn't describe a method wherein the color scheme changes to communicate information corresponding to elapsed time associated with the software application.

However, the background of Kimura describes JPA 10-145745, which discloses a portable telephone unit that varies the color of the backlight based on the current battery level (column 1 lines 39-67 and column 2 lines 1-9). The battery life of the portable phone is considered to be a measure of how long the phone has been on since it was last charged, and how much time remains before the phone must be recharged, thus varying the color of the backlight of the phone based on the battery life is considered a method wherein the color scheme changes to communicate information corresponding to elapsed time associated with the software application. It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Anderson, Lee, Lin, Kishida, and Murren the system and method of varying the

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backlight of a portable phone according to an elapsed time associated with the software application, as taught by the background of Kimura, in order to allow a user to quickly and easily see how much battery life is left in the phone simply by observing the color of the backlight.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Washburn whose telephone number is (571) 272-5551. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ulka Chauhan can be reached on (571) 272-7782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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